

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

DERRICK D. CAIN,

Plaintiff,

v.

Case No. 2:10-cv-77  
HON. GORDON J. QUIST

P. CARUSO, et al.,

Defendants.

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**REPORT AND RECOMMENDATION**

Plaintiff filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. On June 6, 2012, defendants filed a Motion to Dismiss For Failure of Plaintiff to Appear at His Scheduled Deposition, For Failure to Cooperate in Discovery, For Failure to Prosecute, and For Costs Related to Non-appearance at Plaintiff's Deposition. Defendants maintain that plaintiff twice failed to appear at his scheduled deposition. Defendants further seek costs in the amount of \$615.10.<sup>1</sup> On June 13, 2012, the undersigned issued an order requiring plaintiff to file a response to defendants' motion within 28 days. Plaintiff was warned that failure to file a response could result in the imposition of costs and dismissal of this case for failure to prosecute. Plaintiff has failed to file a response to defendants' motion as ordered by this court. Therefore, it is recommended that plaintiff's complaint be dismissed in its entirety, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute. *See Catz v. Chalker*, 142 F.3d 279, 286 (6th Cir. 1998); *Jourdan v. Jabe*, 951 F.2d 108

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<sup>1</sup>Attorney fees in the amount of \$550.00 and court reporter fees in the amount of \$65.10.

(6th Cir. 1991); *Buck v. U.S. Dept. of Agriculture*, 960 F.2d 603 (6th Cir. 1992). It is further recommended that costs be assessed against plaintiff in the amount of \$615.10.

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within fourteen (14) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3. Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley  
TIMOTHY P. GREELEY  
UNITED STATES MAGISTRATE JUDGE

Dated: July 18, 2012